

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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|--------------------------------------------------|---|-----------------------------------------------|
| GUSTAVO XAVIER, |) | |
| Petitioner, |) | Civil Action No. 12-183 Erie |
| |) | |
| v. |) | |
| |) | Magistrate Judge Susan Paradise Baxter |
| MICHAEL HARLOW, |) | |
| Superintendent SCI Albion, <u>et al.</u>, |) | |
| Respondents. |) | |

OPINION AND ORDER

Petitioner, Gustavo Xavier, is currently incarcerated in the State Correctional Institution at Albion ("SCI Albion"). He has filed with this Court a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, in which he is challenging the judgment of sentence imposed upon him on May 21, 2009, by the Court of Common Pleas of Susquehanna County. SCI-Albion is located within the territorial boundaries of this District. Susquehanna County is located within the territory of the United States District Court for the Middle District of Pennsylvania. 28 U.S.C. § 118.

The power of this Court to grant the writ is founded upon 28 U.S.C. § 2241(a), which provides that the "[w]rits of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions." In a state such as Pennsylvania, which contains two or more Federal judicial districts,

the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

28 U.S.C. § 2241(d).

Petitioner was tried, convicted, and sentenced in the Court of Common Pleas of Susquehanna County and therefore most, if not all, of the relevant activity occurred within the Middle District of Pennsylvania. Therefore, this Court finds that the interest of justice would be better served by transferring this petition to the Middle District of Pennsylvania.

An appropriate Order follows.

Dated: August 14, 2012

/s/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
United States Magistrate Judge

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| Respondents. |) | |

ORDER

AND NOW, this 14th day of August, 2012;

IT IS HEREBY ORDERED that the instant petition for a writ of habeas corpus be transferred to the United States District Court for the Middle District of Pennsylvania FORTHWITH.

/s/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
United States Magistrate Judge